

Serial No. 09/739,223  
Amendment After Final dated 09/04/2003  
Response to Office Action dated 06/04/2003

#### LISTING OF CLAIMS

This listing of the claims replaces all prior versions and listings of claims in the application:

Claims 1 -4. (Canceled)

Claim 5. (Currently Amended) A method for a tumor-selective expression of a gene in a non-rat cell comprising ~~inserting in~~ injecting said cell with a gene construct comprising said gene operably linked to a tumor-specific rat Hex II promoter, whereby said rat Hex II promoter is selectively activated in non-rat tumor cells as compared with non-rat normal cells.

Claim 6. (Currently Amended) The method of claim 5, wherein said gene construct is ~~inserted~~ injected in said non-rat cell *in vitro*.

Claim 7. (Currently Amended) The method of claim 5, wherein said gene construct is ~~inserted~~ injected in said non-rat cell *in vivo*.

Claim 8. (Original) The method of claim 5, wherein said gene construct is inserted in an adenovirus type 5 recombinant vector or in a lipid-based delivery system.

Claim 9. (Currently Amended) The method of claim 5, wherein said gene encodes an enzyme that converts an otherwise non-toxic prodrug into its active form, wherein said method further comprises exposing said tumor thereto.

Claim 10. (Original) The method of claim 9, wherein said gene is HSV Tk or Cytochrome P-450<sup>TM</sup> 2B1.

Claim 11. (Original) The method of claim 10, wherein said gene is HSV Tk and wherein said prodrug is ganciclovir.

Claim 12. (Original) The method of claim 10, wherein said gene is Cytochrome P-450<sup>TM</sup> 2B1 and wherein said prodrug is cyclophosphamide, penicillin, amidase or  $\beta$ -lactamase.

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Claims 13- 20. (Canceled)

Claim 21. (Withdrawn) A kit adapted to provide the tumor-specific gene construct of claim 1.

Claim 22. (Withdrawn) The kit of claim 21 for use in screening tumor-specific gene expression *in vitro*.

Claims 23-25. (Canceled)

Claim 26. (New) A method of screening for tumor-selective expression of a gene *in vitro*, comprising: introducing a gene construct comprising a gene operably linked to a rat Hex II promoter to a sample of cells *in vitro* such that said gene construct is inserted into one or more of said cells; and screening said sample of cells for selective expression of said gene; whereby said rat Hex II promoter is selectively activated in non-rat tumor cells as compared with non-rat normal cells.

Claim 27. (New) The method of claim 26, wherein said gene construct is inserted in an adenovirus type 5 recombinant vector or in a lipid-based delivery system.

Claim 28. (New) The method of claim 26, wherein said gene encodes an enzyme that converts an otherwise non-toxic prodrug into its active form, wherein said method further comprises exposing said tumor.

Claim 29. (New) The method of claim 28, wherein said gene is HSV Tk or Cytochrome P-450<sup>TM</sup> 2B1.

Claim 30. (New) The method of claim 29, wherein said gene is HSV Tk and wherein said prodrug is ganciclovir.

Claim 31. (New) The method of claim 29, wherein said gene is Cytochrome P-450<sup>TM</sup> 2B1 and wherein said prodrug is cyclophosphamide, penicillin, amidase or  $\beta$ -lactamase.